

EXHIBIT D

1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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5 IN RE: PROCESSED EGG PRODUCTS : MDL NO. 2002
6 ANTITRUST LITIGATION 08-MDL-02002

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9 PHILADELPHIA, PA

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11 MAY 4, 2018
12 DAY THREE

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14 BEFORE: THE HONORABLE GENE E.K. PRATTER, J.

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TRIAL TRANSCRIPT

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(Transcript produced by mechanical shorthand via C.A.T.)

1 A. Yes.

2 Q. And who were some of those leaders?

3 A. Well, the Cal-Maine organization was -- was very
4 supportive of the seal. The Rose Acres organization was very
5 supportive of the seal and other producers. There were
6 members, as Michael Foods, one of the largest producers who
7 were significantly on the breaker side of the business, that
8 was not in favor of that 100% rule.

9 Q. Now, you say that you got yourself invited to this
10 meeting between the United Egg Producers and the Food
11 Marketing Institute in early 2002.

12 Did you end up going to that meeting?

13 A. I did. I didn't get invited. I just went and showed up.
14 I knew when it would be and I was very respectful. I -- I
15 showed up, I listened to the presentation. Then when we had
16 an opportunity to dialogue back and forth with FMI, I
17 explained that there wasn't -- there wasn't uniform agreement
18 within the industry to the 100% rule.

19 Q. Okay. Now, when you -- did a point come where -- you
20 said that you had already by this point expressed some concern
21 about 100% rule. At this time in early 2002, apart from going
22 to this meeting with the Food Marketing Institute, did you do
23 anything else to let it be known that you were not happy with
24 the program as it was developing?

25 A. There was a group of about 50 million birds worth of

1 producers that were essentially reaching out to the rest of
2 the industry and saying we can't live with this 100% rule,
3 because it will absolutely wreak havoc on parts of our
4 business. So we made an appeal in committee, at Board
5 meetings. We reached out to all the other members and said
6 that we needed relief from this 100% rule.

7 Q. Now, around the time that you were doing this, and I'll
8 get to the -- some questions about the details of that
9 immediately, but just quickly before that, at the time when
10 you were starting with these other producers to have these
11 discussions and take the actions you described, do you recall
12 that the United Egg Producers were doing anything to try to
13 encourage members to join the new program?

14 A. Yeah. I mean, I think everybody in the -- that were
15 members were being encouraged to comply, you know,
16 100 percent. But we made amendments and motions at the Board
17 meeting to essentially put this up for a vote. We asked for
18 relief for that side of the industry that had contracts and
19 that were producing liquid and powder products.

20 Q. Do you recall that a point came during that year when the
21 United Egg Producers sent communications to members
22 encouraging them to participate in this new Animal Welfare
23 Program?

24 A. Yeah, it was -- generally, yes, I am -- I am familiar
25 with those outreach.